

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA	:	
	:	CRIMINAL ACTION
v.	:	
	:	NO. 1:11-CR-009-ODE
ADA CORDERO;	:	
	:	
GABRIEL PAYAMPS;	:	
	:	
CLEYMI MANON;	:	
	:	
MOISES ZAPATA; and	:	
	:	
DAVID GARCIA HERNANDEZ	:	

MOTION OF THE UNITED STATES FOR
REDUCTION OF SENTENCE PURSUANT TO USSG § 5K1.1

Comes now the United States of America, by Sally Quillian Yates, United States Attorney, and Kim S. Dammers and Brent A. Gray, Assistants United States Attorney for the Northern District of Georgia, and files this, its Motion for Reduction of Sentence Pursuant to USSG 5K1.1 as follows.

This motion pertains to the following defendants in this case, all of whom testified at the trial of three defendants in a related case:

Ada Cordero;
Gabriel Payamps;
Cleymi Manon;
Moises Zapata; and

David Garcia Hernandez

To allow the Court to compare the scope of cooperation and the requested reduction among cooperators, this Motion will also include two individuals, Julio Sanchez and Luis Vargas Brito, who were charged in the related case, 1:11-CR-060, that named the trial defendants.

The government has concluded that the above named defendants provided substantial assistance in the prosecution in 1:11-CR-060. Accordingly, the government moves according to U.S.S.G. § 5K1.1 for a reduction in sentence from the guideline range for each of the above named defendants. The table below sets forth each defendant's general cooperation provided, the PSR Offense Level and guideline range, and the government's recommended reduction.

Defendant	Cooperation	PSR Offense Level and GL Range	Recommended Reduction
Ada Cordero	Cordero testified to robberies she planned with trial defendants Reyes and Espinal. She was important in explaining the method and means of the conspiracy credible.	Her PSR Offense Level is 36, CH level I. This correlates to a GL range 188 - 235 months. She is subject to a 120-month mandatory minimum.	28.5%, or a 3-level reduction 135 - 168 months.
Gabriel Payamps	Payamps testified to the	His PSR Offense	20% , or 2-level

	robberies he committed with the trial defendants, to the general manner and means of conspiracy, and to co-conspirator statements.	Level is currently 31, CH I, which correlates to GL range 108 - 135 months. Defendant is safety valve eligible, which removes him from the 120-month mandatory minimum that would otherwise apply.	reduction to 87 - 108 months.
Cleymi Manon	Manon testified to the robberies he planned with trial defs Reyes and Espinal. He also testified to admissions by these defendants.	His PSR Offense Level is currently 32, CH I, which correlates to a G/L range 121 - 151 months. Defendant is not currently safety valve eligible, although he would be if the Court were to sustain his firearm objection.	20% , or a 2-level reduction to 97 - 121 months.
Mosies Zapata	Zapata testified to the robberies he planned with trial defs Reyes and Espinal. He also testified to admissions by trial defendants. He joined the conspiracy after the murders. He also was helpful to Gwinnett County in other cases that led to the indictment of individuals.	Because Zapata is a career offender, his PSR GL range is 262 - 327 months, based on offense level 34, CH VI.	34% , or 4- level reduction to Level 30, GL range 168 - 210 months.
David Garcia Hernandez	Garcia testified as to admissions by trial defs,	His PSR Offense Level is currently 31,	20% , or 2-level reduction to 87 -

	and to the fact that he picked two defendants up after May 11, 2009, robbery and murder.	CH I, which correlates to GL range 108 - 135 months. Defendant is safety valve eligible, which removes him from the 120-month mandatory minimum that would otherwise apply.	108 months.
Luis Vargas-Brito (a defendant in case 1:11-CR-60)	Vargas is the cousin of Johan Brito and testified about conduct by Brito and others during the May 11, 2009, robbery and killing. Vargas was present, but was not a shooter and maintained that he did not know about the robbery.	His current PSR Offense Level is currently 40, CH II, which correlates to GL range 324 - 405 months. Assuming the Court makes rulings in Vargas's case consistent with the trial defendant's regarding grouping and application of USSG § 2A1.2, his expected Offense Level will likely be 38, which relates to a GL range of 262 - 327 months.	35.8%, or a 4-level reduction resulting in a GL range of 168 - 210 months from the anticipated GL range.
Julio Sanchez (a defendant in case 1:11-CR-60)	Sanchez was a robber at the April 7th and May 11, 2009 robberies and killings. He was not a shooter in either event, and was not present when the killings occurred. He testified as to events on the days of the killings, to the manner and means of the conspiracy, and to admissions of party	His PSR G/L range is 360 months - life, but based on rulings made in sentencing trial defs, I expect a range of 292 - 365 months.	Pursuant to the plea agreement, the government will recommend a 25-year sentence.

	opponents. He also provided substantial assistance pre-indictment.		
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For the reasons stated above, the government respectfully requests that the Court reduce the sentences of these defendants in recognition of the substantial assistance they provided and in accordance with USSG § 5K1.1. In each case, a sentence reduction will comport with the goals set forth in 18 U.S.C. § 3553(a) , especially in light of the characteristics of each defendant.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which will automatically send email notification of such filing to the attorneys of record listed with ECF.

This 26th day of June, 2012.

/s/KIM.DAMMERS@USDOJ.GOV
ASSISTANT UNITED STATES ATTORNEY
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